

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
TYSHAWN PITTMAN,**

Plaintiff,

**5:20-cv-422
(GLS/ATB)**

v.

SGT/INV STACEY BILLINGS et al.

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Tyshawn Pittman
Pro Se
7 Owego Street
Cortland, NY 13045

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following an Order and Report-Recommendation (R&R) by Magistrate Judge Andrew T. Baxter duly filed on April 30, 2020. (Dkt. No. 7.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein, to the court for review.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

ORDERED that the Order and Report-Recommendation (Dkt. No. 7) is

ADOPTED in its entirety; and it is further

ORDERED that plaintiff's Eleventh Amendment claim is **DISMISSED WITH PREJUDICE**; and it is further
ORDERED that, with the exception of plaintiff's Fourth Amendment unreasonable seizure and his First Amendment retaliation claim against all three defendants, which **SURVIVE** review and shall proceed, the complaint is **DISMISSED WITHOUT PREJUDICE IN ALL OTHER RESPECTS**; and it is further

ORDERED that plaintiff may amend his complaint as to his equal protection and municipal liability claims within **THIRTY (30) DAYS** from the date of this Order¹; and it is further

ORDERED that, if plaintiff files an amended complaint, it shall be referred to Magistrate Judge Baxter for review; and it is further

ORDERED that the Clerk provide a copy of this Order to plaintiff in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

¹ Any amended complaint filed by plaintiff must bear his original signature and must be a complete pleading that will supersede and replace the original complaint in its entirety. The amended pleading must also name one or more defendants and set forth a short and plain statement of the facts on which he relies in support of his claim that the individual named as a defendant engaged in misconduct or wrongdoing that violated plaintiff's constitutional right.

May 21, 2020
Albany, New York

Gary L. Sharpe
Gary L. Sharpe
U.S. District Judge